

# **EXHIBIT 5**

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## § 25.27

## ARTS AND CULTURAL AFFAIRS

## ARTS AND CULTURAL AFFAIRS

## ARTICLE 25—TICKETS TO PLACES OF ENTERTAINMENT

[Eff. until May 16, 2011, pursuant to L.1991, c. 704, § 4.

See also, Art. 25—Theatre Tickets, ante.]

## Section

- 25.01. Legislative findings.
- 25.03. Definitions.
- 25.05. Repealed.
- 25.07. Ticket prices.
- 25.08. Additional printing on tickets.
- 25.09. Ticket speculators.
- 25.11. Resales of tickets within buffer zone.
- 25.13. Licensing of ticket resellers.
- 25.15. Bond.
- 25.17. Supervision and regulation.
- 25.19. Posting of license or certificate.
- 25.21. Change of office location.
- 25.23. Posting of price lists; information to purchaser.
- 25.25. Automated ticket purchasing software.
- 25.27. Records of purchases and sales.
- 25.29. Commissions to employees of places of entertainment.
- 25.31. Unlawful charges in connection with tickets.
- 25.33. Operator prohibitions.
- 25.35. Suspension or revocation of licenses.
- 25.37. Private right of action.
- 25.39. Criminal penalties.

## Historical and Statutory Notes

## L.2010, c. 151 legislation

L.2010, c. 151, § 11, provides:

"Notwithstanding the provisions of article 5 of the general construction law, if this act shall take effect after May 15, 2010, the provisions of article 25 of the arts and cultural affairs law, except section 25.11 are hereby revived and shall continue in full force and effect as they existed on May 15, 2010 through May 15, 2011, when upon such date such provisions shall expire and be deemed repealed."

## L.2007, c. 61 legislation

L.2007, c. 61, § 19, as amended by L.2007, c. 374, § 12, eff. July 18, 2007, provides:

"This act shall take effect immediately, provided this chapter shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and provided further,

that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through fifteen of this act shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section seventeen of this act shall take effect upon the reversion of article 25 of title G of the arts and cultural affairs law pursuant to section 4 of chapter 704 of the laws of 1991, as amended."

## L.2005, c. 106 legislation

L.2005, c. 106, § 11-a, added by L.2005, c. 134, § 6, eff. June 30, 2005, deemed eff. June 14, 2005, provides:

"Notwithstanding the provisions of article 5 of the general construction law, the provisions of article 25 of title G of the arts and cultural affairs law are hereby revived and shall continue in full force and effect as they existed on May 31, 2005 and shall be subject to the repeal and reversion of such article pursuant to chapter 704 of the laws of 1991, as amended."

## L.1991, c. 704 legislation

L.1991, c. 704, § 4; amended L.1994, c. 319, § 1; L.1995, c. 114,

§ 1; L.1996, c. 28, § 1; L.1997, c. 632, § 1, deemed eff. June 1, 1998; L.1998, c. 73, § 1, eff. June 1, 1999; L.1999, c. 60, § 1, eff. June 1, 2000; L.2000, c. 42, § 1, eff. June 1, 2001; L.2001, c. 48, § 1, eff. May 3, 2001; L.2001, c. 48, § 1, eff. June 1, 2001; L.2001, c. 48, § 1, eff. June 8, 2001; L.2001, c. 48, § 1, eff. June 10, 2003; L.2001, c. 48, § 1, eff. June 14, 2005; L.2001, c. 48, § 1, eff. May 31, 2007; L.2001, c. 374, § 11, eff. July 18, 2007; L.2009, c. 68, § 2, eff. June 1, 2009; L.2009, c. 68, § 2, eff. June 1, 2009; L.2009, c. 68, § 2, eff. July 2, 2010; p

"This act [adding Arts and Cultural Affairs Law article 25, set out repealing Arts and Cultural Law article 25, set out firm amending McK. Unconsol. § 8919] shall take effect on the day after it shall have become law [became law Aug. 2, 1991, Oct. 1, 1991], provided, that the laws of 2007 shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article

## § 25.01. Legislative findings

[Eff. until May 16, 2011, pursuant to L.1991, c. 704, § 4. See also, § 25.01 in A.

The legislature finds and declares that it is the policy of the state to encourage the arts and subject to the supervision and control of the political subdivisions of the state and the public against fraud, extortion and other illegal practices.

The legislature further finds and declares that it is the policy of the state to encourage the arts and subject to the supervision and control of the political subdivisions of the state and the public against fraud, extortion and other illegal practices. The legislature further finds and declares that it is the policy of the state to encourage the arts and subject to the supervision and control of the political subdivisions of the state and the public against fraud, extortion and other illegal practices.

(Added L.1991, c. 704, § 1; L.2007, c. 61, § 1, eff. May 3,



## § 25.11

cultural affairs law, as added by this act, shall not apply to tickets printed prior to enactment of such article so long as notice of the higher maximum premium price and prohibition of sales within one thousand five hun-

## ARTS AND CULTURAL AFFAIRS

dred feet from the physical structure of the place of entertainment, where applicable, is prominently displayed at the point of sale and at such place of entertainment."

## Notes of Decisions

Indictment and information 1  
Probable cause 2

## 1. Indictment and information

Indictment under "anti-scalping law" was facially sufficient in alleging that defendant offered concert tickets for resale and specifying the other conditions that brought him within purview of statute, even though there was no allegation that defendant actually possessed tickets to sell. *People v. Osborne*, 1999, 180 Misc.2d 162, 688 N.Y.S.2d 874. Public Amusement And Entertainment § 177.

## 2. Probable cause

Police officer had probable cause to believe that defendant violated law prohibiting an individual to resell or offer to resell at any price tickets to an entertainment venue seating over 5000 persons, within 1500 feet of the building, as required for arrest; officer observed defendant saying to passersby that he had tickets to a concert approximately 200 feet from the entrance to entertainment venue. *People v. Lewis* (1 Dept. 2008) 50 A.D.3d 595, 857 N.Y.S.2d 88, leave to appeal denied 11 N.Y.3d 790, 866 N.Y.S.2d 616, 896 N.E.2d 102. Arrest § 63.4(13).

## § 25.13. Licensing of ticket resellers

[Eff. until May 16, 2011, pursuant to L.1991, c. 704, § 4.  
See also, § 25.13 in Art. 25 Theatre Tickets, ante.]

1. No person, firm or corporation shall resell or engage in the business of reselling any tickets to a place of entertainment or operate an internet website or any other electronic service that provides a mechanism for two or more parties to participate in a resale transaction or that facilitates resale transactions by the means of an auction, or own, conduct or maintain any office, branch office, bureau, agency or sub-agency for such business without having first procured a license or certificate for each location at which business will be conducted from the secretary of state. Any operator or manager of a website that serves as a platform to facilitate resale, or resale by way of a competitive bidding process, solely between third parties and does not in any other manner engage in resales of tickets to places of entertainment shall be exempt from the licensing requirements of this section. The department of state shall issue and deliver to such applicant a certificate or license to conduct such business and to own, conduct or maintain a bureau, agency, sub-agency, office or branch office for the conduct of such business on the premises stated in such application upon the payment by or on behalf of the applicant of a fee of five thousand dollars and shall be renewed upon the payment of a like fee annually. Such license or certificate shall not be transferred or assigned, except by permission of the secretary of state. Such license or certificate shall run to the first day of January next ensuing the date thereof, unless sooner revoked by the secretary of state. Such

## ARTS AND CULTURAL AFFAIRS

license or certificate setting forth such information in order to enable him or her to sell such article and shall be act of state of the moral of

2. No operator's agent or ticket reseller owned or

3. The operator or manager of which a ticket is for sale, such obstruction. Every disclosure of such obstruction

4. If any licensee or business provides a service including any fees, surcharge price, on every transaction the delivery of tickets shall be waived.

(Added L.1991, c. 704, § 4; L.2005, c. 107, § 2, eff. L.2007, c. 374, § 5, eff.

His

L.2010, c. 151 legislation

L.2010, c. 151, § 11, p. 1. Notwithstanding the article 5 of the general law, if this act shall take effect on May 15, 2010, the provisions of the arts and cultural affairs law, except section 25.11 as amended and shall continue in effect as they exist on May 15, 2010 through May 15, 2011, upon such date such provisions shall expire and be deemed repealed.

L.2009, c. 68 legislation

L.2009, c. 68, § 4, pre. "This act shall take effect on June 1, 2009, provided, however, that if this act shall not have become a law before June 1, 2009, this act shall be deemed to have taken effect in full force and effect on June 1, 2009; provided that the amendments to the arts and cultural affairs law, section one of this act, the expiration and repeal of this act, and shall expire and be repealed therewith."

L.2007, c. 374 legislation

L.2007, c. 374, § 13,



## ARTS AND CULTURAL AFFAIRS

ed feet from the physical structure the place of entertainment, where applicable, is prominently displayed the point of sale and at such place entertainment."

## Violations

## Probable cause

Police officer had probable cause to believe that defendant violated law prohibiting an individual to resell or to resell at any price tickets to entertainment venue seating over 100 persons, within 1500 feet of the building, as required for arrest; officer observed defendant saying to a bystander that he had tickets to a seat approximately 200 feet from entrance to entertainment venue. *People v. Lewis* (1 Dept. 2008) 50 A.D.3d 695, 857 N.Y.S.2d 88, leave to appeal denied 11 N.Y.3d 790, 866 N.E.2d 616, 896 N.E.2d 102. Ar. = 63.4(13)

## Persons

entitled to L.1991, c. 704, § 4. Tickets, *ante*.]

shall resell or engage in the sale of entertainment or operate a ticket service that provides a ticket to a resale transaction by the means of an auction, branch office, bureau, agency having first procured a license. Such business will be conducted by the operator or manager of a website, or sale, or resale by way of a third party and does not include the sale of tickets to places of entertainment. The operator shall deliver to such applicant a license and to own, conduct or operate a branch office for the sale of tickets as stated in such application. The operator shall pay to the applicant of a fee of five dollars on the payment of a like fee to the secretary of state. Such license shall not be transferred or assigned. Such license shall expire on January next ensuing the date of issuance. Such

## ARTS AND CULTURAL AFFAIRS

## § 25.13

license or certificate shall be granted upon a written application setting forth such information as the secretary of state may require in order to enable him or her to carry into effect the provisions of this article and shall be accompanied by proof satisfactory to the secretary of state of the moral character of the applicant.

2. No operator's agent shall sell or convey tickets to any secondary ticket reseller owned or controlled by the operator's agent.

3. The operator or the promoter shall determine whether a seat for which a ticket is for sale has an obstructed view, and shall disclose such obstruction. Every sale or resale of such ticket shall include a disclosure of such obstructed view.

4. If any licensee under this section demonstrates that their business provides a service to facilitate ticket transactions without charging any fees, surcharges or service charges above the established price, on every transaction, except a reasonable and actual charge for the delivery of tickets, then the fees for licensing under this section shall be waived.

(Added L.1991, c. 704, § 1. Amended L.2005, c. 106, § 5, eff. June 14, 2005; L.2005, c. 107, § 2, eff. June 14, 2005; L.2007, c. 61, § 7, eff. May 31, 2007; L.2007, c. 374, § 5, eff. July 18, 2007; L.2009, c. 68, § 1, eff. June 9, 2009.)

## Historical and Statutory Notes

## L.2010, c. 151 legislation

L.2010, c. 151, § 11, provides:

"Notwithstanding the provisions of article 5 of the general construction law, if this act shall take effect after May 15, 2010, the provisions of article 25 of the arts and cultural affairs law, except section 25.11 are hereby revived and shall continue in full force and effect as they existed on May 15, 2010 through May 15, 2011, when upon such date such provisions shall expire and be deemed repealed."

## L.2009, c. 68 legislation

L.2009, c. 68, § 4, provides:

"This act shall take effect immediately; provided, however, that if this act shall not have become a law on or before June 1, 2009 section two of this act shall be deemed to have been in full force and effect on and after June 1, 2009; provided, further, that the amendments to article 25 of the arts and cultural affairs law, made by section one of this act, shall not affect the expiration and repeal of such article, and shall expire and be deemed repealed therewith."

## L.2007, c. 374 legislation

L.2007, c. 374, § 13, provides:

"This act shall take effect immediately; provided, however, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through ten of this act shall not affect the repeal of such article and shall be deemed repealed therewith."

## L.2007, c. 61 legislation

L.2007, c. 61, § 19, as amended by L.2007, c. 374, § 12, eff. July 18, 2007, provides:

"This act shall take effect immediately; provided this chapter shall not take effect with respect to the issuance of licenses or certificates under this article by the secretary of state or department of state until January 1, 2008 and regulation under this article by the commissioners of licenses of the political subdivisions of the state shall continue through December 31, 2007, and provided further, that the amendments to article 25 of title G of the arts and cultural affairs law made by sections one through fifteen of this act shall not affect the repeal of such article and shall be deemed repealed therewith; and provided further that section seventeen of this act shall take effect upon the